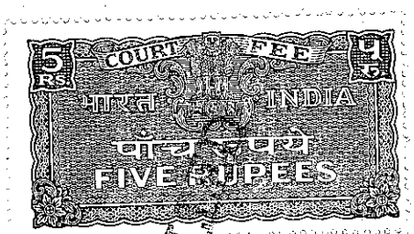
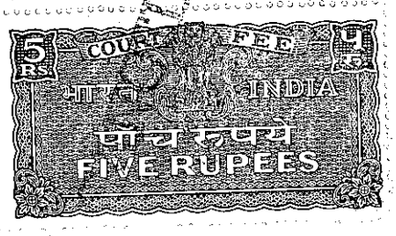
(3)

CANC

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CIVIL REVISION NO. 25 of 2003

1. SMT. SHAKUNTALA RAO WIDOW OF LATE RAM KRISHNA RAO, ADULT
2. PRADIP SANGEWAR SON OF LATE RAM KRISHNA RAO
3. NARENDRA SANGEWAR SON OF LATE RAM KRISHNA RAO
4. PRAVESH SANGEWAR SON OF LATE RAM KRISHNA RAO





ALL RESIDENTS OF ANUPAM NAGAR, RAIPUR.

APPLICANTS/ TENANTS

VERSUS

P. R. No. 131/03
Presented by Shri S.R. Saha
dated 15.9.03

1. DR. SMT. UMA GUPTA WIDOW OF LATE SHRI GOPI CHAND GUPTA AGED ABOUT 65 YEARS RESIDENT OF BAIJNATH PARA WARD, NEAR KOTWALI, RAIPUR.
2. DINESH GUPTA SON OF LATE SHRI GOPICHAND GUPTA AGED ABOUT 38 YEARS RESIDENT OF 103, MEWAL APARTMENT, 80 FT. ROAD, MOCHEL PALLAYA, INDIRA NAGAR, FIRST STAGE, BANGALORE.
3. RAJESH GUPTA SON OF LATE SHRI GOPICHAND GUPTA AGED ABOUT 34 YEARS RESIDEN OT 5-B, KALYAN NAGAR SOCIETY, NEAR MIG FLATS, KARELIBAG, BARODA (GUJRAT).
4. SMT. MADHUSEN GUPTA WIFE OF SHRI PRADIP KUMAR SEN GUPTA AGED

ABOUT 41 YEARS, BTI COLONY, G-6, SHANKAR NAGAR, RAIPUR.

5. SMT. NEENA GUPTA WIFE OF SHRI SANTOSH GUPTA AGED ABOUT 40 YEARS RESIDEN OF NEAR DURGA TALKIES, DURGA TALKIES ROAD, BOSS PAIPARA, RAJNANDGAON.

NON-APPLICANTS/ LANDLORDS

REVISION UNDER SECTION 23 E OF MP/CG ACCOMMODATION CONTROL ACT, 1961

XI-HC-78

A.F.R.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R. No. 25 **सन् 2003**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

19/02/2007

Shri B.P. Sharma, counsel for the applicants.

Shri Parag Kotecha, counsel for non-applicant No. 1.

None for other non-applicants.

Shri Sumesh Bajaj, learned counsel appears as amicus curiae.

The applicants are aggrieved by order dated 26.12.2002 passed by the Rent Controlling Authority, Raipur in case No. 17/90 (8) 89-90 (Dr. Uma Gupta & others Vs. Smt. Shakuntala Rao & others) whereby the Rent Controlling Authority has ordered eviction of the applicants from the demised house on the ground of bonafide requirement of the landlord-non-applicant No. 1.

Shri B.P. Sharma, learned counsel for the applicants submitted that after passing of the impugned order, the landlady Smt. Uma Gupta-non-applicant No.1 has alienated the demised house and therefore, it results in completely wiping of the cause of action itself and deprives the transferee of the right to execute the order for eviction passed by the Rent Controlling Authority. It was contended that in an order for eviction under Section 23 of the Accommodation Control Act, the cause of action is personal to the original landlord and the bonafide requirement of landlord ceased to exist on alienation of the demised premises.

Shri Parag Kotecha, learned counsel for the landlady non-applicant No.1 concedes that the demised house has been alienated by the non-applicant No.1 after the order for eviction of the applicants was passed by the Rent Controlling Authority.

The only point that requires consideration in this revision is whether in view of the subsequent events, i.e. the alienation of the demised house by the landlady, the order for eviction of the tenant is liable to be set aside.

In ***Ramesh Kumar Vs. Kesho Ram***; reported in ***A.I.R. 1992 SC 700*** , it was observed as under:

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

"The normal rule is that in any litigation the rights and obligations of the parties are adjudicated upon as they exist at the commencement of the lis. But this is subject to an exception. Wherever subsequent events of fact or law which have a material bearing on the entitlement of the parties to relief or on aspects which bear on the moulding of the relief occur, the court is not precluded from taking a 'cautious cognizance' of the subsequent changes of fact and law to mould the relief."

In ***Pasupuleti Venkateswarlu Vs. The Motor & General Traders;*** reported in ***A.I.R. 1975 Supreme Court 1409***. It was held by the Apex Court that:

"For making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed."

"Where during the pendency of a proceeding under Rent Control legislation by the landlord for permission to evict the tenants, a subsequent event in the facts of the case takes place which has a material bearing on the landlord's right to evict, the approach of the High Court in revision, in taking cognizance of the new development cannot be said to be wrong or illegal."

Section 23-E of the Chhattisgarh Accommodation Control Act is as follows:

"23-E. Revision by High Court,- (1) Notwithstanding anything contained in section 31 or section 32, no appeal shall lie from any order passed by the Rent Controlling Authority under this Chapter.

(2) The High Court may, at any time *"suo motu"* or on the application of any person aggrieved, for the purpose of satisfying itself as to the legality, propriety or correctness of any order passed by or as to the

(पीछे देखिये)

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(45)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

regularity of the proceedings of the Rent Controlling Authority, call for and examine the record of the case pending before or disposed of by such Authority and "may pass such order in revision in reference thereto as it thinks fit" (emphasis supplied by me) and save as otherwise provided by this section, in disposal of any revision under this section, the High Court shall "as far as may be" (emphasis supplied by me) exercise the same powers and follow the same procedure as it does for disposal of a revision under section 115 of the Code of Civil Procedure, 1908 (V of 1908) as if any such proceeding of the Rent Controlling Authority is of a Court subordinate to such High Court.

Provided that no powers of revision at the instance of person aggrieved shall be exercised unless an application is presented within ninety days of the date of the order sought to be revised."

The words "may pass such order in revision in reference thereto as it thinks fit" and "as far as may be" appearing in sub-clause (2) of Section 23-E of the Chhattisgarh Accommodation Control Act, 1961 are suggestive that in suitable cases after taking cognizance of the subsequent events into account, the Court would be justified in moulding the relief and not limit itself to the parameters of revision under Section 115 of C.P.C. Section 23-A of the Chhattisgarh Accommodation Control Act is a special provision for eviction of tenant on the ground of bonafide requirement of landlord. If the landlord, after the order for eviction is passed against the tenant, alienates the demised house his bonafide requirement ceases to exist disentitling the transferee from executing the decree passed against the tenant. In this view of the matter, this is a fit case in which the Court shall not confine itself to the parameters under Section 115 of the C.P.C. and would after taking into consideration the subsequent events mould the relief.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In the result, this civil revision is allowed. The impugned order is set aside. There shall be no order as to costs.

Valuable assistance rendered by Shri Sumesh Bajaj, learned counsel appearing as amicus curiae is acknowledged.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Kvr

YOGENDRA SINGH KANWAR
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